

UNITED STATES MISSION TO THE UNITED NATIONS

U.S. DISABILITY RIGHTS LAW: POLITICAL AND PUBLIC LIFE

In the United States, all men and women have the right to participate in the political and public life of the country without discrimination on the basis of disability. This applies to the programs, activities and services of every level of government: federal, state and local.

Denial of participation: Public entities may not deny persons the opportunity to participate in and benefit from services or benefits on the basis of disability.

Example: A city cannot refuse to admit a person to a city council meeting that is open to the public merely because the person has HIV/AIDS, or an intellectual disability.

Equality in participation and benefits: Persons with disabilities must be provided an “equally effective” opportunity to participate in or benefit from public services.

Example: A person who uses a wheelchair will not have an equal opportunity to participate in a city council meeting if it is held on the second floor of a building with no elevator, just as a deaf person will not if he or she does not have access to what is said. In the same way, a local government website that provides an opportunity to correspond online with local officials will not be accessible to a person with a visual impairment if it is not compatible with a screen reader.

Effective communication: Public entities must ensure that their communication is as effective for persons with disabilities as it is for other persons, and must make available appropriate auxiliary aids and services for that purpose.

Example: To ensure effective communication at a city council meeting, a public entity may be required to provide qualified sign language interpreters and to make any written materials available in alternate formats, such as Braille, or on audio tape or computer disk.

Equality of opportunity: U.S. law mandates equality of *opportunity*, but does not guarantee equality of *results*.

Example: A person who uses a wheelchair seeks to run for elective office. State law requires the candidate to collect petition signatures in order to qualify for placement on the election ballot, but going door-to-door is difficult for the candidate. The law, however, permits the signatures to be collected over several months, by persons other than the candidate, and by various means, including by mail. Thus, the law affords an equally effective opportunity for the person to seek placement on the ballot and to participate in the election process.

Program access: Public programs, when viewed in their entirety, must be accessible to persons with disabilities. Structural modifications are required only when access cannot be provided through other means.

Example: Voter registration forms are distributed on the second floor of a 100 year old municipal building accessed only by stairs. The state may meet its obligation to provide program access to qualified persons with disabilities by distributing the forms in another accessible location without the need to install an elevator or other lift.

United States recognition of the political rights of individuals with disabilities is reflected in general in the Americans with Disabilities Act and specifically in the National Voter Registration Act and the Help America Vote Act (HAVA). This fact sheet provides information regarding United States law and practice and web-retrievable resources related to participation in political and public life of persons with disabilities.

<http://www.usdoj.gov/crt/ada/pubs/ada.txt>; http://www.fec.gov/hava/law_ext.txt;
<http://www.fvap.gov/laws/nvralaw.html>.

Para (a) of draft Article 18 calls for -- *actively promoting an environment in which persons with disabilities can effectively and fully participate in political and public life, directly or through freely chosen representatives, including the right and opportunity of citizens with disabilities to vote and be elected, and by ensuring that voting procedures and facilities: are appropriate, accessible and easy to understand; protect the right of citizens with disabilities to vote by secret ballot; and allow, where necessary, the provision of assistance in voting to citizens with disabilities* -- which is paralleled in HAVA. This U.S. law requires State and local governments to make polling places, including the path of travel, entrances, exits, and voting areas of each polling facility, accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; and provide individuals with disabilities, including the blind and visually impaired with information about the accessibility of polling places, including outreach programs to inform the individuals about the availability of accessible polling places and training election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with disabilities in elections for Federal office. HAVA also authorizes funds for legal assistance and technical assistance.

Para (b) of draft Article 18 calls for -- *actively promoting an environment in which persons with disabilities can effectively and fully participate in the conduct of public administration, and shall encourage, as appropriate, their participation in public affairs, including to: participate on a basis of equality in the activities and administration of political parties and civil society; form and join organisations of persons with disabilities to represent persons with disabilities at national, regional and local levels.* U.S. laws support individuals with disabilities through training activities, such as Partners in Policy Making, so they can both become policy makers, including become elected officials and administrators, and influence such officials.

<http://www.partnersinpolicymaking.com/index.html>.

Para (c) of draft Article 18 calls for -- *ensuring that persons with disabilities and their organisations participate, on an equal basis to others, in all decision-making processes, in particular those concerning issues relating to persons with disabilities.* U.S. addresses this through a variety of laws, court decisions and programs.

<http://www.acf.hhs.gov/programs/add>
<http://straylight.law.cornell.edu/supct/html/98-536.ZS.html>
<http://www.cms.hhs.gov/independenceplus/>

(Circulated by the United States during the Seventh Session of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities, January 16 – February 3, 2006)